



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD). No.2232 of 2022 and

CRL MP(MD)No.1636 of 2022

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S.Thirukotti @ Seenivasagam

... Petitioner / Accused
(Rank not known)

Vs

1. State Represented by
The Inspector of Police,
CS CID,
Tirunelveli.
(Crime No.101/2020)

... Respondent / Complainant

2. Annalakshmi,
Sub Inspector of Police,
Town Police Station,
Sankarankovil,
Tenkasi District.

...Respondent /
Defacto Complainant

PRAYER :- These Criminal Original Petitions filed under Section 482 Cr.P.C.to call for the records in Crime No.101/2010 and quash the same as far as the petitioner / accused (Rank not known) is concerned.

For Petitioner : Mr. Perumal.C.T.

For Respondent No.1 : Mr. K.Sanjai Gandhi

Government Advocate(Crl.Side)

ORDER

This petition has been filed to call for the records in Crime No.101/2010 and quash the same as far as the petitioner / accused (Rank not known) is concerned.

2.The case of the petitioner is that on 21.06.2020 at about 9.30 a.m., when the defacto complainant was conducting routine vehicle check up at Sankarankovil, Thiruvudayan Road, the first accused Senthoo Pandi crossed them with 2 bags of PDS rice each weighing 40KG. The Police officials arrested him and registered a case in Crime No.101 of 2020 for the offences punishable under Sections 6(4) of Tamil Nadu Scheduled Commodities (RDSCS), 1982 and Section 7(1) (a)(ii) of Essential Commodities Act, 1955 against the four accused persons and recorded his confession statement. Hence, the complaint.



3. The learned counsel for the petitioner submitted that petitioner is working as a salesman in PDS rice shop and he has not committed any offence as alleged by the prosecution and also submitted that based on the confession statement alone the petitioner's name was impleaded in this case.

4. The learned Government Advocate(Crl.Side) submitted that the petitioner along with other accused Nos.2,4 and 5 were procured PDS Rice from the villagers and sold the same for higher price and the first accused in his statement has stated that he used to purchase PDS rice in the nearby villages of Karivalamvanthanallor, Alagapuri and A.Karisalkulamvanthanallor, Panaiyur and handed over the same in the godown owned by the third and the fourth accused. The second accused introduced the 3rd and 4th accused to the petitioner.

5. On perusal of records it shows that the petitioner is working as a salesman in PDS rice shop and there is a specific allegation made against the petitioner to attract the said offences. Therefore, the petitioner was arrested and remanded to Judicial Custody and he also suspended from service.

6. It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated ***12.02.2019*** - ***Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.***, wherein it is held as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not."



of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2022

Sub Assistant Registrar(CS)

TTA

To

1. The Inspector of Police,
CS CID,
Tirunelveli.

Copy to:

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.T.PERUMAL, Advocate (SR-16137[F] dated 01/04/2022)

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Date : 31/03/2022

MGJ(23.05.2022) 4P 4C